

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS**

EMERGING INDUSTRY
TECHNOLOGIES, INC., d/b/a SPENCE
LABS,

Plaintiff,

v.

FIDELITY NATIONAL INFORMATION
SERVICES, INC.,

Defendant.

Case No. 1:23-cv-05922

JOINT STATEMENT REGARDING DEFENDANT’S AFFIRMATIVE DEFENSES

NOW COME the Parties, by and through their respective undersigned counsel and as for their Joint Statement regarding the Plaintiff, Emerging Industry Technologies, Inc. d/b/a Spence Labs’ (“Spence”), Motion to Strike Defendant, Fidelity National Information Services, Inc.’s (“FIS”) Affirmative Defenses (Dkt. No. 74) to, state as follows:

1. On September 13, 2024, Spence filed its Amended Complaint (ECF No 9). FIS filed a Rule 12(b)(6) motion to dismiss Spence’s Amended Complaint on October 23, 2023 (ECF No. 21). After being fully briefed (ECF Nos. 26, 28), the Court entered an opinion and order granting in part and denying in part FIS’s Motion to Dismiss (ECF No. 62). FIS filed its Answer and Affirmative Defenses on September 10, 2024 (ECF No. 70), in which FIS alleged twelve affirmative defenses.

2. On October 1, 2024, Spence filed its Motion to Strike nine of FIS’s twelve alleged affirmative defenses (ECF No. 74). On October 9, 2024, the Parties filed a joint motion to set a

briefing schedule on Spence's Motion to Strike (ECF No. 75). On October 15, 2024, this Court ordered the Parties to meet and confer and file a statement by October 22, 2024 (ECF No. 76).

3. The Parties have conferred and are currently in agreement on most of the issues initially raised by Spence and believe it would be productive to continue their discussion on one final issue in the hope that briefing can be avoided.

4. The Parties hereby request an additional ten (10) days to confer as to the remaining alleged affirmative defense that Spence sought to strike. If the parties can come to an agreement, Spence will withdraw its motion to strike, and FIS will withdraw the agreed-upon affirmative defenses by Friday, November 1, 2024. Otherwise, FIS will file its response to Spence's motion by Friday, November 1, 2024, and Spence will file its reply by Tuesday, November 12, 2024.

Dated: October 22, 2024

Respectfully Submitted,

/s/ Nicole O'Toole Peterson

/s/ Elisa McEnroe

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